



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via email

May 4, 2022

Re: FOIA Request No. NLRB-2022-000894

Dear Tish Wright (Farhang & Medcoff PLLC):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on April 11, 2022, in which you seek "all communications between the Board, its attorneys/agents and the Union including but not limited to internal notes, e-mails and letter correspondence; any and all letters of determination or any drafts from the Board" in *Tucson Electric Power Company (TEP) & UNS Gas, Inc.*, Case No. 28-CA-288440. You assumed financial responsibility for the processing of your request in the amount of \$37.00.

We acknowledged your request on April 11, 2022. In an email communication with a member of the FOIA staff that same day, you narrowed your request to all emails and other written communications between the Union and the NLRB representatives in Case No. 28-CA-288440. You also assumed additional fees up to \$111.00 for the processing of your request.

Your request is granted in part and denied in part, as explained below.

A search of the Agency's electronic casehandling system, NxGen, has been conducted. This search has yielded 82 pages of responsive, releasable records from the requested case file, which are attached.

After a review, I have determined that portions of the records are exempt from disclosure under Exemptions 6, 7(C), and 7(D) of the FOIA (5 U.S.C. § 552(b)(6), (b)(7)(C), and (b)(7)(D)). Specifically, redactions have been made to the records to protect the privacy interests of individuals named in the records. These redactions were made pursuant to FOIA Exemption 6, which pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy, FOIA Exemption 7(C), which pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy, and Exemption 7(D), which pertains to information the release of which "could reasonably be expected to disclose the identity of a confidential source..." where the information is provided under an express assurance of confidentiality,

or in circumstances from which such an assurance could be reasonably inferred. 5 U.S.C. § 552(b)(6), (b)(7)(C), and (b)(7)(D).

Please note that certain pages have redactions marked as “attorney client privilege.” These markings were in the original submission to the Regional Office. Redactions made by the FOIA Branch appear as black marks with a white overlay text with applicable FOIA exemptions noted.

For the purpose of assessing fees, we have placed you in Category A, commercial use requester. This category refers to requests “from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation.” NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(v). Consistent with this fee category, you “will be assessed charges to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought.” 29 C.F.R. § 102.117(d)(2)(ii)(A). Charges are \$9.25 per quarter-hour of professional time. 29 C.F.R. § 102.117(d)(2)(i).

Three hours of professional time was expended in searching for and reviewing for release the requested material. Accordingly, please remit \$111.00.

To pay by check or money order (do not send cash), please send your payment - with the FOIA case number(s) written on the check or money order - and mail it to the NLRB FOIA Branch, 1015 Half Street SE, 4th Floor, Washington, DC 20570. Please make the check payable to the National Labor Relations Board. To pay by credit or debit card, please go to www.pay.gov. **Note the FOIA case number(s) on your check or electronic payment to ensure that your payment will be properly credited.

You may contact Marissa Wagner, the FOIA Attorney-Advisor who processed your request, at (202) 273-2957 or by email at marissa.wagner@nrlb.gov, as well as the Agency’s FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Attorney, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the FOIA Public Liaison is:

Kristine M. Minami
FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlb.gov

Telephone: (202) 273-0902

Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at:
<https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt
Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nrlrb.gov

Any appeal must be postmarked or electronically submitted within 90 days of the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the Attorney-Advisor, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

/s/ Synta E. Keeling

Synta E. Keeling
FOIA Officer

Attachment: (82 pages)